

1 Recommendation are important for a thorough analysis of Petitioner's
2 claim and, even if the Court were to set aside the reliance on the
3 *Frisbie* and *Ker* authority, Petitioner's claim that his restraint
4 violates the extradition treaty still does not entitle him to habeas
5 relief. See *Weilburg v. Shapiro*, 488 F.3d 1202, 1206 (9th Cir. 2007)
6 (citations omitted) (in civil rights case, allegations that state
7 officials ignored established extradition procedures and effectively
8 kidnapped plaintiff did not invalidate plaintiff's incarceration in
9 state to which he was extradited); *Eckert v. Tansy*, 936 F.2d 444, 450
10 (9th Cir. 1991) ("Eckert cannot be granted habeas corpus relief on
11 the ground of illegal extradition.") (citation omitted)).
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13 In addition, as to Claim Two, to the extent in his Objections
14 Petitioner attempts to create a cognizable federal claim by arguing
15 the state courts' lack of jurisdiction deprived him of due process,
16 [Dkt. 22 at 5-6], "[Petitioner] may not . . . transform a state-law
17 issue into a federal one merely by asserting a violation of due
18 process." See *Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1996).
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20 As to Claim Three, in his Objections Petitioner does not attempt
21 to show that the State destroyed the evidence at issue in bad faith.
22 [Dkt. 22 at 7-10]. Accordingly, his Objections lack merit for the
23 reasons stated in the Report and Recommendation.
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25 As to Claim Four, Petitioner still does not show that the
26 defense could have presented helpful expert testimony on the time of
27 death based on the evidence available in this case. [Dkt. 22 at
28 11-18]. Petitioner's speculation to the contrary is insufficient to

1 establish ineffective assistance of trial counsel for failing to
2 present expert testimony. See *Grisby v. Blodgett*, 130 F.3d 365, 373
3 (9th Cir. 1997) ("Speculation about what an expert could have said is
4 not enough to establish [Strickland] prejudice."). Moreover, to the
5 extent Petitioner faults his trial counsel for failing to present a
6 police report summary of Ashley's statements to police, [Dkt. 22 at
7 18-20], his argument fails for the reasons stated in the Report and
8 Recommendation. To the extent Petitioner now argues that he was
9 denied his right to present a complete defense based on the fact that
10 the jury was not presented with the police report summary of Ashley's
11 statements, [Dkt. 22 at 20], his argument fails because he has not
12 shown that he was prevented from presenting the police report summary
13 at trial. Rather, Petitioner has shown only that trial counsel did
14 not present the police report and that the trial court accepted
15 counsels' stipulation that the jury should not see the police report
16 summary during deliberations because it was not submitted as evidence
17 at trial. [Dkt. 19 at 61].

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19 Finally, as to Claim Five, Petitioner Objections, [Dkt. 22 at
20 21-23], fails for the reasons stated in the Report and
21 Recommendation.

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23 Accordingly, the Court accepts and adopts the Magistrate Judge's
24 Report and Recommendation. IT IS THEREFORE ORDERED that Judgment
25 shall be entered denying and dismissing the Petition with prejudice.

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1 IT IS FURTHER ORDERED that the Clerk serve copies of this Order,
2 the Magistrate Judge's Report and Recommendation and the Judgment
3 herein on Petitioner and on counsel for Respondent.
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5 LET JUDGMENT BE ENTERED ACCORDINGLY.
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7 DATED: March 20, 2023.
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12 SUNSHINE S. SYKES
13 UNITED STATES DISTRICT JUDGE
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